IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.3403/07
Rafiq Mohammad Vs. The District Magistrate & Ors.

10.5.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Anshuman Saxena for petitioner.
Shri B.S. Chhaba, Deputy Government Advocate.

Heard learned counsel for the petitioner.

The petitioner has filed this petition with the prayer that the petitioner is serving sentence in Central Jail, Kota being a convict for an offence under Section 8/21 of the NDPS Act and sentenced to undergo rigorous imprisonment for 10 years by order of the trial court dated 12.3.2003. He applied for grant of emergent parole because his daughter is going to marry on 12.5.2007. As per the

instructions of the Government, the application for parole under the NDPS Act has to be decided by Inspector General of Prisons.

Learned Deputy Government Advocate submits that although the case of the petitioner has been forwarded to Inspector General of Prisons but so far the report of the S.P. is concerned, that has not been received, therefore, decision on such application could not be taken. The learned counsel for the petitioner has relied on the judgment of Hon'ble Supreme Court in Dadu @ Tulsidas Vs. State of Maharashtra, AIR 2000 SC 3203 in which it has been held that although Section 32A of the NDPS Act provides that no suspension awarded under the NDPS Act shall be suspended or remitted or commuted does not in any way affect the powers of the authorities to grant parole

because parole does not amount to the suspension, remission or commutation of sentence. It was held that notwithstanding the provisions of the Section 32A, a convict is entitled to parole, subject, however, to the conditions governing the grant of it under the statute, if any or the Jail Manual or the Government Instructions.

Learned Deputy Government Advocate could not point out any perversity against the petitioner, his conduct or behavior while in confinement.

In the facts of the case and keeping in view the fact that petitioner's daughter is going to marry on 12.5.2007, I am inclined to enlarge the petitioner on parole. The petitioner is ordered to be enlarged on parole, subject to his furnishing a personal bond in the sum of

Rs.50,000/- with one surety in the like amount to the satisfaction of Superintendent, Central Jail, Kota with the undertaking to surrender on 22.5.2007.

The writ petition stands disposed of with the above observations.

(Mohammad Rafiq),J.

Rs/-